

Message Text

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ACTION EUR-12

INFO OCT-01 IO-13 ISO-00 AGRE-00 ITC-01 AID-05 CEA-01
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PASS AGRICULTURE ELECTRONICALLY

E. O. 11652: N/A
TAGS: EAGR, EEC, ETRD
SUBJECT: CXT SUSPENSIONS ON FROZEN BLUEBERRIES AND CRANBERRIES
REF: (A) EC BRUSSELS 3125, (B) BONN 5760

BEGIN UNCLASSIFIED: 1. SUMMARY: A GERMAN EFFORT TO GET AN EC DUTY SUSPENSION FOR CERTAIN FROZEN BERRIES HAS HAD THE PERVERSE RESULT OF PROMPTING A COMMISSION PROPOSAL THAT WOULD RESULT IN TIGHTENED DEFINITIONS AND HIGHER DUTIES ON THE IMPORT OF AMERICAN FRESH AND FROZEN CRANBERRIES AND BLUEBERRIES.
END SUMMARY.

2. EC TARIFF CONCESSIONS WERE FIRST GIVEN IN THE DILLON ROUND FOR FRESH CRANBERRIES (TO SWEDEN AND FINLAND) AND IN THE KENNEDY ROUND FOR FRESH AND FROZEN BILBERRIES. CXT EXPLANATORY NOTES WERE ISSUED SOMETIME BEFORE 1972 TO
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LIMIT THE TERMS CRANBERRIES AND BILBERRIES TO ONLY EUROPEAN SPECIES. HOWEVER, MANY MEMBER STATES HAVE CONTINUED TO PROVIDE THE MORE FAVORABLE CONCESSION RATES TO AMERICAN EXPORTS. ACCORDING TO AVAILABLE EC NIMEXE STATISTICS EC COUNTRIES, MOSTLY FRG AND ITALY AND LATER THE UK, WERE IMPORTING FRESH CRANBERRIES FROM THE UNITED STATES UNDER CXT NO. 08.08B DURING 1969-1975, AND ITALY WAS IMPORTING U.S. FRESH BLUEBERRIES

UNDER 08.08C IN 1971. WE HAVE NO RECORD OF THE USG EVER CHALLENGING THE VALIDITY OF OR COMPLAINING ABOUT THE SUBSEQUENT NARROW TARIFF EXPLANATORY NOTES FOR BILBERRIES AND CRANBERRIES.

3. CURRENTLY THERE ARE MOVES UNDERWAY TO QUALIFY TARIFF SUBHEADINGS FOR FROZEN BILBERRIES AND CRANBERRIES, IN THE CONTEXT OF EXTENSION OF DUTY SUSPENSIONS, WHICH WILL MAKE IT MORE DIFFICULT FOR THE MEMBER STATES TO IGNORE THESE AFORE-MENTIONED EXPLANATORY NOTES. THIS LATEST STEP WAS INADVERTENTLY STARTED BY THE GERMAN AUTHORITIES WHO WANTED THE TARIFF CLASSIFICATIONS IN THE MEMBER STATE LANGUAGES CLARIFIED SO THERE WOULD BE NO QUESTION THAT FROZEN AMERICAN BLUEBERRIES AND CRANBERRIES WERE ELIGIBLE FOR TEMPORARY DUTY SUSPENSIONS. THE COMMISSION THEREUPON MADE A PROPOSAL FOR A COUNCIL REGULATION PUBLISHED IN OFFICIAL JOURNAL NO. C 111 OF MAY 7, WHICH WOULD SUSPEND TEMPORARILY CXT DUTIES ON A NUMBER OF AGRICULTURAL PRODUCTS, INCLUDING FROZEN BLUEBERRIES AND CRANBERRIES FOR THE PERIOD JULY 1, 1977 TO JUNE 30, 1978. WE WILL TRANSMIT THE COMMISSION PROPOSAL BY SEPARATE AIRGRAM. OUR COMMISSION SOURCES INFORM US THAT THIS PUBLISHED PROPOSAL IS AN EARLY DRAFT, WHICH HAS SUBSEQUENTLY BEEN AMENDED AS REGARDS THE TARIFF SUBHEADINGS FOR FROZEN BLUEBERRIES AND CRANBERRIES. ACCORDING TO OUR SOURCES, THE RELEVANT TARIFF HEADING FOR BLUEBERRIES AND CRANBERRIES SHOULD READ AS FOLLOWS:

| CONTEXT NO. | DESCRIPTION | APPLICABLE | DUTY |
|--|--|------------|------|
| EX 08.10A | BILBERRIES (FRUITS OF VACCINIUM MYRTILLUS), WHETHER OR NOT COOKED, PRESERVED BY FREEZING, NOT CONTAINING ADDED SUGAR | 4 PERCENT | |
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| MYRTILLUS), WHETHER OR NOT COOKED, PRESERVED BY FREEZING, NOT CONTAINING ADDED SUGAR | | | |
| EX 08.10B | BLUE-BLACK FRUITS OF SPECIES VACCINIUM OTHER THAN THOSE OF VACCINIUM MYRTILLUS, WHETHER OR NOT COOKED, PRESERVED BY FREEZING, NOT CON- TAINING ADDED SUGAR | 4 PERCENT | |
| EX 08.10B | CRANBERRIES (FRUITS OF VACCINIUM VITIS IDAEA) AND ROSE-HIPS, WHETHER OR NOT COOKED, PRESERVED BY FREEZING, WITHOUT ADDED SUGAR | 0 | |

4. THE COMMISSION PROPOSAL AS AMENDED IS NOW BEING REVIEWED BY A COUNCIL WORKING GROUP. IT MUST PASS THE EUROPEAN PARLIAMENT BEFORE THE COUNCIL CAN APPROVE IT IN FINAL.

5. THE TARIFF SUBHEADINGS IN THE COMMISSION PROPOSAL LIMIT THE TERMS "BILBERRIES" AND "CRANBERRIES" TO EUROPEAN SPECIES, I.E., THEY EXCLUDE U.S. SPECIES. DEFINED IN THIS FASHION, THE TARIFF SUBHEADINGS HAVE UNFORTUNATE CONSEQUENCES FOR OUR FROZEN TRADE IN BLUEBERRIES AFTER THE TEMPORARY SUSPENSION PERIOD EXPIRES. THEY WOULD SIMILARLY AFFECT OUR FRESH TRADE IN BLUEBERRIES AND OUR FRESH AND FROZEN TRADE IN CRANBERRIES.

6. ALTHOUGH THE EC PROPOSES TO APPLY A TEMPORARY DUTY SUSPENSION TO 4 PERCENT FOR FROZEN AMERICAN BLUEBERRIES, IT DOES SO BY PLACING BLUEBERRIES UNDER 08.10B TO WHICH A NORMAL MFN RATE OF 20 PERCENT APPLIES AS OPPOSED TO 08.10A WHERE THE BOUND MFN DUTY RATE IS 18 PERCENT. IF THE TEMPORARY DUTY SUSPENSION IS NOT EXTENDED AFTER JUNE 30, 1978, IMPORTS OF FROZEN BLUEBERRIES WOULD BE SUBJECT TO 20 PERCENT DUTY.

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CIAE-00 COME-00 EB-07 FRB-03 INR-07 NSAE-00
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R 121644Z MAY 77
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7. CLASSIFYING FROZEN BLUEBERRIES OUTSIDE THE TARIFF SUBHEADING FOR FROZEN BILBERRIES WOULD ALSO LEAD TO CLASSIFYING DEFINITIVELY FRESH BLUEBERRIES UNDER 08.08F, "OTHER," WHICH HAS A 12 PERCENT DUTY INSTEAD OF UNDER 08.08C, BILBERRIES, WHICH HAS A 4 PERCENT BOUND DUTY.

8. WE UNDERSTAND THAT AMERICAN CRANBERRIES ARE NOT OF THE VACCINIUM VITIS IDAEA SPECIES. LIMITING THE DEFINITION OF FROZEN CRANBERRIES TO THIS SPECIES UNDER 08QP WOULD MEAN

THAT U.S. EXPORTS WOULD NOT BENEFIT FROM THE DUTY SUSPENSION AND WOULD ALSO MEAN CLASSIFYING FRESH AMERICAN CRANBERRIES UNDER 08.08F WITH A 12 PERCENT DUTY RATE INSTEAD OF UNDER 08.08B WHICH IS BOUND DUTY-FREE. (WE ARE INFORMED THAT SOME MEMBER STATES LIKE BELGIUM ARE ALREADY DOING THIS. END UNCLASSIFIED.

BEGIN CLASSIFIED: 9. POSSIBLE COURSES OF ACTION, AS WE SEE IT, TO GET THE EC TO ADOPT TARIFF EXPLANATORY NOTES WHICH WOULD DEFINE CRANBERRIES AND BILBERRIES TO INCLUDE AMERICAN SPECIES
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ARE (1) TO WORK QUIETLY WITH MAJOR IMPORTING MEMBER STATES TO HAVE THEM PUSH INTERNALLY FOR THE NECESSARY LANGUAGE CHANGES; (2) MAKE A FORMAL DEMARCHE TO THE EC COMMISSION AND MEMBER STATES (IN THIS CASE IT WOULD BE HELPFUL TO HAVE CUSTOMS DOCUMENTATION THAT MEMBER STATES HAVE REGULARLY IMPORTED FRESH CRANBERRIES UNDER CXT NO. 08.08B, FRESH BLUEBERRIES UNDER CXT NO. 08.08C, AND FROZEN BLUEBERRIES UNDER CXT NO. 08.10A BEFORE THE CXT EXPLANATORY NOTES AS WELL AS ANY RECORD AVAILABLE TO WASHINGTON ESTABLISHING A GOOD U.S. LEGAL CLAIM, E.G. NEGOTIATION RECORD); AND (3) WORK IN THE MULTILATERAL TRADE NEGOTIATIONS TO GET THE EC TO CLARIFY THAT PREVIOUS TARIFF CONCESSIONS APPLY TO AMERICAN SPECIES AND TO MAKE PERMANENT THE TEMPORARY DUTY SUSPENSIONS ON FROZEN BLUEBERRIES AND CRANBERRIES.

10. GENEVA MAY WISH TO COMMENT ON THE CONDITIONS UNDER WHICH EC TARIFF CONCESSIONS ON BILBERRIES AND CRANBERRIES WERE GRANTED. BONN HAS BEEN WORKING CLOSELY WITH THE GERMAN TRADE AND MINISTRY OFFICIALS TO MAINTAIN OUR ACCESS INTO THE GERMAN MARKET AND MAY WISH TO COMMENT ON HOW WE CAN BEST COORDINATE A SOLUTION TO THIS THORNY CUSTOMS PROBLEM. END CLASSIFIED.

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